IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23731 of 2004

Between:

Sri K. Mohan Rao, S/o. Pentaiah,
APSRTC, Kannapuram, Koyyalgudem, West Godavari District.

..... PETITIONER

AND

1 The Vice-Chairman and Managing Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.
2 The Divisional Manager, Andhra Pradesh State Road Transport Corporation, Eluru Division, Eluru, Andhra Pradesh
3 The Depot Manager, Andhra Pradesh State Road Transport Corporation, Jangareddy Gudem Depot, West Godavari District A.P.
4 The Regional Manager, West Godavari Region, APSRTC, Eluru, West Godavari District.

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ/direction or order preferably in the nature of mandamus directing the respondents to reinstate the petitioner into service while setting aside the order No. 02/95(60)2002-JRG of the third respondent dated 28-5-2004 and also the subsequent rejection of the appeal by the second respondent No. Steno/19(26)/2004-Dvm:ELR, dated 15-7-2004 as being illegal, arbitrary and violative of Art. 14, 16 and 21 of the Constitution of India in addition to being opposed to principle of natural justice and pass such other order or orders.

Counsel for the Petitioner:SMT.P.BHANUMATHI

Counsel for the Respondents: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court at the admission stage made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 23731 of 2004

O R D E R:

Challenging the orders passed by the 3rd respondent in Proceedings No.02/95(60)2002-JRG dated 28.5.2004 and confirmation in the appeal by the 2nd respondent in Proceedings No.Steno/19(26)/2004-Dvm:ELR dated 15.7.2004, the present writ petition is filed.

The petitioner is alleged to have involved in serious case of cash and conduct irregularities while the petitioner was conducting the vehicle No.AP9Z 7659 on 20.11.2002 on the route J.R. Gudem – Puliramannagudem as detected by the TTIs, HES/Peddapuram at stage No.7/8. His name was accordingly deleted from the selection/approved list and he was terminated from service. Then the petitioner filed W.P. 10679 of 2003 wherein this court set aside the dismissal order on the ground that the services of the petitioner were terminated without conducting domestic enquiry and also held that it is for the respondent-Management to proceed with the casual conductor in accordance with law. Thereafter, a charge sheet dated 21.10.2003 was issued framing the following charges:

> "1. For having failed to observe the rule Issue & Start.
>
> 2. For having failed to issue tickets to 5 passengers who are traveling from Kannapuram to Puliramannagudem ex-stages 6 to 8 even though you have collected an amount of Rs.20/- from the passengers at Rs.4/- per each passenger

which amounts to misconduct in terms of clause No.(x) of Reg.No.28 of APSRTC Employees (Conduct) Regulations, 1963".

3. For having failed to collect the fare and issue a ticket to a lady passenger who is traveling from Merakagudem to Puliramannagudem ex.stages 7 to 8 which amounts to misconduct in terms of clause No. (vi) (a) of Reg.28 of APSRTC Employees (Conduct) 1963".

The enquiry officer after conducting domestic enquiry submitted a report to the disciplinary authority. The disciplinary authority having accepted the same, ordered for deletion of the name of the petitioner from approved/selection list of the casual conductors. Challenging the said proceedings, the petitioner filed an appeal but the said appeal was rejected by the Divisional Manager vide proceedings dated 15.7.2004. Thereafter, a review petition was filed by the petitioner before the Regional Manager, which was also rejected. Challenging the same, the present writ petition is filed.

The challenge is made on the ground that the charge sheet has been issued at the behest of the Enquiry Officer who is clearly indicative of pre-disposed mind of the disciplinary authority. On 2.1.2004, the petitioner requested for production of passenger witnesses for cross-examination. Without passing any orders, the Enquiry Officer went ahead with the enquiry on 11.2.2004. Therefore, the respondents have violated the principles of natural justice and hence the writ petition.

Learned counsel for the petitioner contended that without affording a reasonable opportunity to cross-examine the passenger witnesses the enquiry report has been passed and therefore it violates the principles of natural justice.

On the other hand, learned counsel for the respondents contended that after giving reasonable opportunity the enquiry was conducted and that the findings are not challenged on the ground that they are perverse. Therefore, he prays to dismiss the writ

petition.

It is settled law that the courts should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court in the sense that it was in defiance of logic or moral standards. The scope of judicial review is limited to the deficiency in decision making process and not the decision. In the decision making process if the authority deciding the case has ignored vital evidence and thereby arrived at erroneous conclusion or has misconstrued the provisions of the relevant Act or Regulations or misunderstood the scope of its jurisdiction, the constitutional power under Article 226 can be invoked to set aside such errors and prevent gross injustice to the party complaining. In the affidavit nowhere it is stated that the order passed by the disciplinary authority is illegal or irrational or suffers from procedural impropriety. In the entire affidavit it is only stated that the principles of natural justice have been violated because the respondent-Management did not produce the passenger witnesses. As seen from the impugned proceedings, several opportunities were given to the petitioner and he wantonly not participated in the enquiry to defend himself. The question of summoning the passengers arises only after the evidence to be adduced on behalf of the respondent-Management was over. For that reason, he did not participate in the enquiry. The petitioner even refused to sign in the statement of one of the witnesses who conducted the check.

With regard to the non-production of passengers, it is observed that the petitioner has to produce any passengers in support of his claim but not the respondent-Management. Even though the petitioner availed the extension of time to enable himself to produce some witnesses, he failed to do so. Therefore, the impugned proceedings does not suffer from any legal infirmities so as to call for interference of this court. The remedy, if any, is elsewhere but not the proceedings under Article 226 of the constitution of India, where the power of judicial review is circumscribed.

Hence, the writ petition is devoid of merit and it is accordingly dismissed at the stage of admission.

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K.C. Bhanu, J.

Date: --12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Vice-Chairman and Managing Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.
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